

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 874 OF 2000**

1 Narendra Ramrao Shinde

Adult, Occ : Agriculture,

Residing at Asale,

Tal : Wai,

Dist : Satara

2 Veersing Ramrao Shinde

Adult, Occ : Agriculture,

Residing at Asale,

Tal : Wai,

Dist : Satara

...Appellants
(Original
Opponents)

Versus

1 Smt. Shakuntala Ramesh Shinde

Age 40, Occ. Household and

Agricultural, Residing at Asale,

Tal. Wai, Dist. Satara.

2 Dinesh Balwnat Wagh

Adult, Occ : Agriculture,

Residing at Asale, Tal. Wai,

District Satara.

3 Shivaji Balasahst Wagh

Adult, Occ : Agriculture,

Residing at Asale,

Tal : Wai, Dist : Satara

4. The New India Assurance Co.Ltd.

Satara Divisional Office, Satara.

...Respondents

Mr. Vaibhav Patankar along with Mr. Arjun Kulkarni along with
Mr. Sarvesh Deshpande, Advocate for the Appellants.

Mr. Manish V. Khadukban i/b. Mr. Anilkumar Patil, Advocate for
Respondent No.1

Mr. Dilip Bodake, Advocate for Respondent No.2.

Mrs. S. S. Dwivedi along with Ms. Jaya Shukla, Advocate for
Respondent No.4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th MARCH 2023.

Oral Judgment :

1. Being aggrieved and dissatisfied with the judgment and order passed by Motor Accident Claims Tribunal, Satara (for short "the Tribunal"), appellants/original respondent Nos.3 and 4 preferred this appeal.

2. Learned counsel for the respondent-Insurance Company submits that the name of insurance company is already deleted before passing of the impugned judgment and order, still insurance company is made party – respondent No.4.

3. Brief facts of the case are as under ;

On 30th March 1991, deceased Ramesh Shinde and Rajashri went to Panchwad on Suzuki motorcycle bearing N. MXX 867 which was being driven by Narendra. Deceased – Ramesh had taken Rajeshri for medical treatment and after treatment, deceased Ramesh and Rajashri were returning back on the same Suzuki motorcycle driven by Narendra. When the said motorcycle came near the field of one Chhabutai, opponent No.1- Dinesh Balwant Wagh came on his Hero-Honda Motorcyle No.MJG 4832 driving rashly and negligently and dashed the motorcycle, on which, deceased was proceeding. Due to the said dash, Ramesh, Rajashri and Narendra were thrown on the ground. Deceased Ramesh sustained bleeding injuries and died while taking treatment. Offence was registered against riders of both motor cycles. The claimant/ respondent No.1 filed claim petition for getting compensation before the Tribunal. The Tribunal has passed judgment and order. Against it, this appeal.

4. It is contention of learned counsel for the appellant that the claim petition was filed after limitation period. As per section 166

of Motor Vehicles Act, 1988 from the date of accident, the claim petition is to be filed within six months. In the present case, accident occurred in the month of March 1991, whereas the claim petition was filed on 28th February 1992 but this fact is not considered by the Tribunal. Learned counsel further submits that the accident occurred due to sole negligence of respondent No.2 but Tribunal has not considered this fact and fixed 50% contributory negligence on appellant No.1, which is improper. Learned counsel further submits that Tribunal has awarded 12% interest, which is on higher side, it be reduced.

5. It is contention of learned counsel for the claimant/ respondent No.1 that claimant is widow of deceased. Due to her poor condition and personal difficulties and grief suffered by her due to death of her husband, she filed claim petition after three months of stipulated time. Moreover, as per view of Hon'ble Apex Court in **Vinod Gurudas Raikar vs National Insurance Co. Ltd. 1991 AIR 2156**, limitation prescribed for filing claim petition prior to 1994 was six months. Learned counsel further submits that Tribunal has rightly held 50-50% contributory negligence of both motorcycle riders and FIR was lodged against both motorcycle riders. The rate

of interest awarded by the Tribunal is proper and requested to dismiss the appeal.

6. I have heard both learned counsel, perused judgment and order passed by the Tribunal.

7. It is contention of learned counsel for the appellant that claim was filed beyond the limitation period or the reasonable time. In the present case, accident occurred on 30th March 1991 and claim petition was filed on 28th February 1992. The Hon'ble Apex Court in the case of **Vinod Gurudas Raikar (Supra)** has extended six months more and held that within a period of one year, claim must be filed. The claim petition was filed within one year from the date of accident. So there is no question that it was filed beyond the limitation period. I do not see merit in contention of learned counsel that it was beyond limitation.

8. In respect of interest part, while awarding compensation, Tribunal has awarded 12% interest on the compensation amount. No doubt, it is the discretion of the Tribunal to award interest on compensation amount but, in my view, 12% is slightly more, hence, I am considering 9% interest on compensation amount.

9. In view of above, I pass following order :
 1. Appeal is partly allowed.
 2. The award passed by the Tribunal against the appellant stands confirmed @9% interest from the date of filing claim petition till realization of the amount.
 3. The award amount is modified only in respect of the interest amount i.e. 9% interest.
 4. The appellants are directed to deposit award amount as per 9% interest within eight weeks after receipt of this order before the Tribunal.
 5. The claimants are permitted to withdraw deposited amount along with accrued interest thereon.
10. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)